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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Charles Belcher, et al.,

10 Plaintiffs,

11 v.

12 Mark R Tasset, et al.,

13 Defendants.
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No. CV-24-01067-PHX-DLR

ORDER

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16 This is a medical negligence action stemming from care that Plaintiff Charles
17 Belcher received at Banner University Medical Center in May 2022. Plaintiffs filed their
18 initial complaint on May 9, 2024. (Doc. 1.) They filed an amended complaint on June 19,
19 2024, correcting a jurisdictional discrepancy. (Doc 20.) Then, on November 4, 2024, they
20 filed a second amended complaint (“SAC”), which added a claim titled “Medical
21 Gaslighting” against a new Defendant, Charles Belcher’s former spouse Felisha D’Alesse
22 Barr. (Doc. 45.) The crux of the claim against Barr is that she causally contributed to Mr.
23 Belcher’s injuries by allegedly authorizing the medical treatment on his behalf despite
24 knowing that she no longer had the authority to do so.

25 Barr moves to dismiss the complaint against her pursuant to Federal Rule of Civil
26 Procedure 12(b)(6) (Doc. 49), and that motion is fully briefed (Docs. 53, 54). Rule 12(b)(6)
27 permits the dismissal of a complaint that is not based on a cognizable legal theory or that
28 lacks sufficient facts to state a plausible claim under an otherwise cognizable legal theory.

1 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Balistreri v. Pacifica Police Dep’t*, 901 F.2d
2 696, 699 (9th Cir. 1988). Barr contends that “[t]he allegations, so framed, do not even state
3 a cognizable claim against [her],” (Doc. 49 at 1) but she does not move for dismissal on
4 that basis.¹ Instead, Barr argues that dismissal is warranted because, even assuming the
5 allegations against her could state a claim under a cognizable legal theory, the claim cannot
6 plausibly succeed because the statute of limitations has run. (*Id.* at 2-3.)

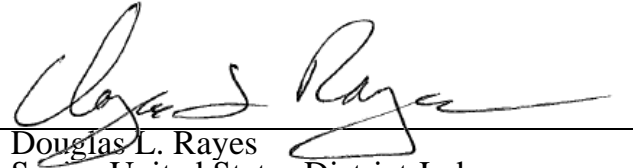
7 Dismissal on statute of limitations grounds is appropriate if the untimeliness is
8 apparent on the face of the complaint. *See Jablon v. Dean Witter & Co.*, 614 F.2d 677, 682
9 (9th Cir. 1980). Such is the case here. Barr contends that Arizona’s two-year statute of
10 limitations for personal injury actions, A.R.S. § 12-542, applies to the allegations against
11 her (Doc. 49 at 2), and Plaintiffs do not argue otherwise. According to the SAC, Barr
12 authorized treatment on Charles Belcher’s behalf on May 16 or 17, 2022, a fact Plaintiffs
13 learned on May 17, 2022, from a text message sent by Barr’s mother. (Doc. 45 ¶¶ 4, 15,
14 44.) The SAC further alleges that Plaintiffs learned of the alleged medical negligence on
15 July 18, 2022. (*Id.* ¶ 29.) Thus, assuming “medical gaslighting” is a cognizable legal claim,
16 the statute of limitations began to run as to Barr on July 18, 2022, when Plaintiffs’ learned
17 that they had been harmed by the alleged medical negligence and that Barr had allegedly
18 authorized the treatment on Charles Belcher’s behalf. Plaintiffs did not bring their “medical
19 gaslighting” claim against Barr until November 4, 2024, which is more than two years after
20 any personal injury claim would have accrued. Although Plaintiffs, in their response brief,
21 argue that Barr caused them harm and that “genuine issues of material facts” exist (Doc.
22 53 at 1), they do not develop any counterargument to the statute of limitations issue raised
23 in Barr’s motion.

24 Because the personal injury claim against Barr is untimely based on the allegations
25 in the SAC,
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28 ¹ The Court has been unable to locate any decision from any jurisdiction in the
country recognizing “medical gaslighting” as a cause of action.

1 **IT IS ORDERED** that Barr's motion to dismiss (Doc. 49) the claim against her is
2 **GRANTED.**

3 Dated this 19th day of February, 2025.

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9 Douglas L. Rayes
10 Senior United States District Judge
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